



BILLING CODE: 3410-34-P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2012-0040]

Notice of Availability of a Treatment Evaluation Document; Methyl Bromide Fumigation of Cottonseed

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that we have determined that it is necessary to immediately add to the Plant Protection and Quarantine Treatment Manual a treatment schedule for methyl bromide fumigation of cottonseed for the fungal plant pathogen Fusarium oxysporum f. sp. vasinfectum (FOV). We have prepared a treatment evaluation document that describes the new treatment schedule and explains why we have determined that it is effective at neutralizing FOV, certain strains of which are quarantine pests. We are making the treatment evaluation document available to the public for review and comment.

DATES: We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov/#!documentDetail;D=APHIS-2012-0040-0001>.

- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2012-0040, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0040> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Import Specialist, Regulatory Coordination and Compliance, PPQ, APHIS, 4700 River Road Unit 156, Riverdale, MD 20737; (301) 851-2114.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR chapter III are intended, among other things, to prevent the introduction or dissemination of plant pests and noxious weeds into or within the United States. Under the regulations, certain plants, fruits, vegetables, and other articles must be treated before they may be moved into the United States or interstate. The phytosanitary treatments regulations contained in part 305 of 7 CFR chapter III (referred to below as the regulations) set out standards for treatments required in parts 301, 318, and 319 of 7 CFR chapter III for fruits, vegetables, and other articles.

In § 305.2, paragraph (b) states that approved treatment schedules are set out in the Plant Protection and Quarantine (PPQ) Treatment Manual.¹ Section 305.3 sets out a process for adding, revising, or removing treatment schedules in the PPQ Treatment Manual. In that section, paragraph (b) sets out the process for adding, revising, or removing treatment schedules when there is an immediate need to make a change. The circumstances in which an immediate need exists are described in § 305.3(b)(1). They are:

- PPQ has determined that an approved treatment schedule is ineffective at neutralizing the targeted plant pest(s).
- PPQ has determined that, in order to neutralize the targeted plant pest(s), the treatment schedule must be administered using a different process than was previously used.
- PPQ has determined that a new treatment schedule is effective, based on efficacy data, and that ongoing trade in a commodity or commodities may be adversely impacted unless the new treatment schedule is approved for use.
- The use of a treatment schedule is no longer authorized by EPA or by any other Federal entity.

We have determined a new methyl bromide fumigation treatment schedule to neutralize the fungal pathogen Fusarium oxysporum f. sp. vasinfectum (FOV) on cottonseed (Gossypium spp.) is effective, and we have determined that ongoing trade in cottonseed will be adversely impacted unless the new treatment schedule is approved for use.

Certain strains of FOV are present in Australia and not in the United States—specifically FOV vegetative compatibility groups (VCG) 01111 and 01112. These strains are quarantine

¹ The Treatment Manual is available on the Internet at http://www.aphis.usda.gov/import_export/plants/manuals/index.shtml or by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Manuals Unit, 92 Thomas Johnson Drive, Suite 200, Frederick, MD 21702.

pests and could have significant impacts on U.S. cotton production. They are currently found only in Australia. Fumigation with methyl bromide was the only approved treatment for FOV VCG 01111 and 01112, so when the Environmental Protection Agency (EPA) canceled the tolerance for methyl bromide on cottonseed, trade ceased.

However, in a proposed rule published in the Federal Register on April 6, 2012 (77 FR 20752-20756), EPA proposed to reinstate the tolerance of methyl bromide on cottonseed, which would allow trade with Australia to resume if an effective treatment schedule is added to the PPQ Treatment Manual. It is important to resume trade in cottonseed with Australia as soon as possible because fumigated cottonseed can be used as animal feed, and the supply of domestic animal feed has been hurt by recent droughts in cotton-growing regions of the United States. In addition, while FOV VCG 01111 and 01112 are currently found only in Australia, this treatment will also be available should those VCG be found in other countries that wish to export cottonseed to the United States.

Therefore, in accordance with paragraph (b)(2) of § 305.3, we are adding the new methyl bromide fumigation treatment for cottonseed to the PPQ Treatment Manual as T301-e. This treatment schedule will be listed in a separate section of the PPQ Treatment Manual, which will indicate that T301-e was added through the immediate process described in paragraph (b) of § 305.3 and that it is subject to change or removal based on public comment. Although we expect that EPA will finalize the proposed rule to reinstate the tolerance soon, the tolerance is not currently established, meaning that this treatment schedule will not be authorized for use until the EPA proposal is finalized.

Our determination that the new treatment schedule T301-e is effective is presented in a treatment evaluation document we have prepared to support this action. The treatment

evaluation document may be viewed on the Regulations.gov Web site or in our reading room (see ADDRESSES above for instructions for accessing Regulations.gov and information on the location and hours of the reading room). You may request paper copies of the treatment evaluation document by calling or writing to the person listed under FOR FURTHER INFORMATION CONTACT. Please refer to the subject of the treatment evaluation document when requesting copies.

After reviewing the comments we receive, we will announce our decision regarding the new treatment schedule that is described in the treatment evaluation document in a subsequent notice, in accordance with paragraph (b)(3) of § 305.3. If we do not receive any comments, or the comments we receive do not change our determination that the treatment is effective, we will affirm the treatment schedule's addition to the PPQ Treatment Manual and make available a new version of the PPQ Treatment Manual in which T301-e is listed in the main body of the PPQ Treatment Manual. If we receive comments that cause us to determine that T301-e needs to be changed or removed, we will make available a new version of the PPQ Treatment Manual that reflects changes to or the removal of T301-e.

Authority: 7 U.S.C. 7701-7772 and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 23rd day of May 2012.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

